

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7149 of 1996

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

JANAKKUMAR J GONDHIYA

Versus

STATE OF GUJARAT

Appearance:

MR RD DAVE for Petitioner

MR DA BAMBHANIA ADDL. GP for the Respondents.

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 08/10/96

ORAL JUDGEMENT

Rule returnable to day. Learned Additional Government Pleader Mr. D.A.Bambhania, at the suggestion of the Court, accepted service of rule and waives service of rule on behalf of the respondents. On the facts of the case, the petition is disposed of to day as under :

2. Under order dated 21st December, 1994, the

petitioner has been placed under suspension on account of his involvement in the offences committed under sections 7, 13(1) (G)(H) and 13(2) of the Bombay Prevention of Corruption Act. The petitioner challenges the aforesaid order of suspension as well as the order of transfer transferring the petitioner from Junagadh to Baroda vide order dated 12th December, 1994. Mr. Dave, learned advocate for the petitioner has submitted that the petitioner having been transferred out of Junagadh, the petitioner ought not to have been placed under suspension. In the alternative, he has submitted that during the period of suspension, petitioner's headquarter should have been fixed at Junagadh or at the place not far from Junagadh. The contention cannot be accepted. This Court, in the matter of J.U.Puvar v/s. P.K.Bansal [28(1) G.L.R. pg. 956], upheld the action of the Government in placing the delinquent under suspension and also transferring him away from the place of the incident when such delinquent is alleged to be corrupt.

2. Mr. Dave has also made a grievance that the petitioner has not been paid the subsistence allowance. He, however, concedes that the petitioner has not obeyed the order of suspension and has not reported for duty at the head quarter fixed while under suspension. In that view of the matter, the respondents cannot be directed to release the amount of subsistence allowance to the petitioner.

3. Mr. Dave has contended that the petitioner has made representations for change of his head quarter but the same have not been considered by the respondent authorities. In that view of the matter, this petition is partly allowed. The respondents are directed to consider the petitioner's representations at annexures "E" & "F" to the petition in accordance with law and to communicate its decision to the petitioner. Aforesaid exercise shall be completed within a period of ten weeks from the date of receipt of the copy of this order provided the petitioner reports at the headquarter as directed under the impugned order of suspension. Rule is made absolute to the aforesaid extent. There shall be no order as to costs. Copy of this order be sent to respondents herein.

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